

REMARKS

Claims 1-36 are pending in this application. No claims have been allowed. The Examiner has rejected claims 1-36 under 35 U.S.C 103, objected to claims 1, 5, and 15 for informalities, and objected to claim 9 for failing to further limit the parent claim.

Objections

Claims 1, 5, and 15 were objected to for the following informalities:

Claim 1: in line 10, “electrically conductive sample” lacks antecedent basis and is inconsistent with the previous terminology used (“electrically conductive material”);

Claim 5: in lines 4-5, “the giant magnetoresistive signal” lacks antecedent basis; and

Claim 15: in line 1, “the eddy current probe” is not consistent with the previous claims (“eddy current device”).

Applicants have amended claims 1, 5, and 15 to address the above rejections

Claim 9 was objected to for failing to further limit the parent claim. Applicants have canceled claim 9.

Rejections under 35 U.S.C. 103

Claims 1-13, 15-23, 26-33 and 35-36 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,648,721 (Wincheski) in view of Wincheski et al. “Deep Flaw Detection With Giant Magnetoresistive (GMR) Based Self-Nulling Probe,” 26th Annual Review of Progress in QNDE, Montreal Canada, July 1999 (’99 Review).

Claims 14 and 34 were rejected under 35 U.S.C. 103(a) as being unpatentable over Wincheski-’99 Review as applied to claims 1 and 33, and further in view of U.S. Patent No. 6,504,363 (Dogaru).

Claims 24-25 were rejected under 35 U.S.C. 103(a) as being unpatentable over Wincheski-’99 Review as applied to claim 1, and further in view of U.S. Patent No. 6,150,809 (Tiernan).

Applicants respectfully submit that the Wincheski-'99 Review should be removed as a reference and the rejections based on this publication be withdrawn. No copies of this paper were distributed prior to December 3, 1999. As evidenced by the enclosed affidavit of Ms. Tina Hawks Buchanan, the paper was posted on the NASA Langley Research Technical Reports Server on December 3, 1999. Ms. Tina Hawks Buchanan of the NASA Langley Research Center Office of Chief Counsel contacted Ms. Susan Stewart of the Library and Media Services Branch, Office of the Chief Information Officer, NASA Langley Research Center, at 757-864-2518, on August 11, 2003. Ms. Stewart stated that the subject paper was placed on the NASA Langley Research Center Technical Reports Server and made accessible to the public on December 3, 1999. Additionally, Ms. Tina Hawks Buchanan spoke to Ms. Ellen Carrigan, Editorial Department, American Institute of Physics, at 516-576-2476 on August 11, 2003. Ms. Carrigan stated that the proceedings for the 26th Annual Review of Progress in Quantitative NDE, held in Montreal, Canada in July 1999, including the Wincheski-'99 Review, were first published in American Institute of Physics Conference Proceedings, Volume 509, Issue 1, pp. 465-472, dated May 23, 2000 and were made available to the public on May 23, 2000. Furthermore, as evidenced by the attached affidavit of Robin W. Edwards, no copies of the paper were distributed by the inventors at the 26th Annual Review of Progress in Quantitative NDE, held in Montreal Canada in July 1999.

The present application was filed on November 28, 2001 and claimed the benefit of priority from prior provisional patent application serial no. 60/253,352, with a filing date of November 28, 2000. The provisional patent application was filed less than one year after the first publication of the Wincheski-'99 Review on the NASA Langley Technical Reports Server website on December 3, 1999. The Wincheski-'99 Review was co-authored by two of the inventors. Accordingly, the Wincheski-'99 Review is not a proper reference under 35 U.S.C. 103(a). The obviousness rejections of claims 1-36 should accordingly be withdrawn.

CONCLUSION

In view of the above Amendments and Remarks, and the enclosed affidavits, the Applicants submit that all pending claims in the instant application are in condition for allowance. The Applicants respectfully request an early action to this end.

Respectfully submitted,

Robin W. Edwards 8/12/03

Robin W. Edwards
Reg. No.: 39,179
NASA Langley Research Center
Mail Stop 212
Hampton, VA 23681-2199
757-864-3230 (voice)
757-864-9190 (facsimile)
Customer No.: 23351